PATENT

REMARKS

Claims 1-82 are pending in the present application. Applicant respectfully responds to this Office Action.

Claim Rejections – 35 USC § 102

Claims 1-3, 7, 11, 23, 25-27, 31, 35, 40, 42-44, 48, 52, 64, 66-68, 72, 76 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Sarkar et al. (US 6,862,457), "Sarkar" herein after.

Independent claim 1 recites a method of monitoring **a signal having** a first plurality of channels separated in **a first format**, and a second plurality of channels separated in **a second format** different from the first format. In the method, a first parameter of a first one of the first channels is measured, and a second parameter of a second one of the first channels is measured. Relative power between the first one of the first channels and the second one of the first channels is computed as a function of the first and second parameters. In the Office Action, the examiner asserts that "Sarkar further discloses procedures employing CDMA and TDMA communicating with a base station by transmitting **a reverse link signal** in one spectrum (format) and **a forward link signal** in another spectrum (see col. 1, lines 22-59)." See, Office Action, page 2 (emphasis added). The Examiner directs attention to **a reverse link signal** in one spectrum and **a separate forward link signal** in another spectrum. In contrast, Claim 1 recites **a signal** having first channels separated in a first format and second channels in a second format different from the first format. Applicants assert that the two separate signals of the Sarkar patent, the forward link signal and the reverse link signal, fail to disclose or suggest **a signal having** a first plurality of channels separated in **a first format**, and a second plurality of channels separated in **a second format** different from the first format. According, the Sarkar patent fail to disclose computing the relative power between the first one of the first channels and the second one of the first channels because the characteristics disclosed in the Sarkar patent are different from the signal characteristics recited in claim 1. Therefore, the rejection of claim 1 under 35 U.S.C. 102(e) is improper, and should be withdrawn.

The rejections of dependent claims 2-3 and 7, which depend on independent claim 1, as allegedly anticipated by the Sarkar patent are respectfully traversed. In addition to the particular features recited in each claim, claims 2-3 and 7 include the features recited in independent claim 1, but not disclosed or suggested by the Sarkar patent. For example, claim 2 recites that "the second format comprises a code division multi-access format", and claim 3, which depends on claim 2, recites that "the first format comprises a time division multi-access format." The Sarkar patent fails to disclose such a multi-access hybrid channel structure in which a signal has a first plurality of channels separated in time division multi-access format, and a second plurality of channels separated in code division multi-access format. Accordingly, for these reasons and the reasons recited with respect to independent claim 1, dependent claims 2-3 and 7 define patentable advances over the Sarkar patent, and the rejections of claims 2-3 and 7, under 35 U.S.C. § 102(e), should be withdrawn.

Independent claims 25, 42 and 66 have features similar to independent claim 1. Similarly, dependent claims 26-27 and 31; 43-44 and 48; and 67-68 and 72, respectively, recite features similar to dependent claims 2-3 and 7. Accordingly, for the reasons recited above with respect to claims 1-3 and 7, claims 25-27, 31, 42-44, 48, 66-68 and 72 define patentable advances over the Sarkar patent, and the rejections of claims 25-27, 31, 42-44, 48, 66-68 and 72, under 35 U.S.C. § 102(e), should be withdrawn.

Independent claim 11 recites "a power measurement device, comprising a processor configured to receive **first and second waveforms**, measure a first parameter as a function of the first and second waveforms over **a first time period**, measure a second parameter as a function of the first and second waveforms over **a second time period**, and compute relative power of the first waveform between the first and second time periods." In the Office Action, the Examiner asserts that "Sarkar further teaches method for power computation by computing the ratio of parameters (see col. 3, lines 1-3) **in first and second time periods (reverse link and forward link)** during which the power control measurements are made (see col. 5, lines 43-49)." See, Office Action, page 2 (emphasis added). Applicant initially observes that the Examiner does not mention "first and second waveforms" in the Office Action. Also, the Examiner apparently ties the first time period to the reverse link and the second time period to the forward link. However in claim 11, the first parameter is measured as a function of **the first and second waveforms**

over **a first time period**, and the second first parameter is measured as a function of **the first and second waveforms** over **a second time period**. Applicant's representative is unable to locate disclosure in the Sarkar patent disclosing or suggesting these features recited in claim 11. Further, Applicant's representative is unable to locate disclosure in the Sarkar patent disclosing or suggesting to "compute relative power of the first waveform between the first and second time periods" as recited in claim 11. Accordingly, Applicant asserts that the rejection of claim 11 under 35 U.S.C. 102(e) is improper, and should be withdrawn.

The rejection of dependent claim 23, which depends on independent claim 11, as allegedly anticipated by the Sarkar patent is respectfully traversed. In addition to the particular features recited in claim 23 (compute the relative power by computing a ratio of the first and second parameters), the claim includes the features recited in independent claim 11, but not disclosed or suggested by the Sarkar patent. Accordingly, for these reasons and the reasons recited with respect to independent claim 11, the rejection of claim 23 should be withdrawn.

Independent claims 35, 52 and 76, have features similar to independent claim 11. Similarly, dependent claims 40, 64 and 81 respectively recite features similar to dependent claim 23. Accordingly, for the reasons recited above with respect to claims 11 and 23, claims 35, 40, 52, 64, 76 and 81 define patentable advances over the Sarkar patent, and the rejections of claims 35, 40, 52, 64, 76 and 81, under 35 U.S.C. § 102(e), should be withdrawn.

Claim Rejections – 35 USC § 103

Claims 13, 14, 16-21, 38, 54, 55, 57-62 and 79 are rejected under 35 U.S.C 103(a) as being unpatentable over Sarkar in view of Gilhousen et al. (U.S 5,056,109), "Gilhousen" hereinafter. Similarly, claims 4, 8-10, 12, 15, 22, 24, 28, 32-34, 36, 37, 39, 41, 45, 49-51, 53, 56, 63, 65, 69, 73-75, 77, 78, 80 and 82 are rejected under 35 U.S.C 103(a) as being unpatentable over Sarkar in view of Pleif et al. (US 6,191,738). Applicant asserts that, in a rejection based on 35 U.S.C. 103, the Sarkar patent, which is being used under 35 U.S.C. 102(e), is not an appropriate reference and seek disqualification of the Sarkar patent as prior art against the pending claims (see 35 U.S.C. §103(c)). In this regard:

U.S. Patent No. 6,862,457 (Sakar et al.) was owned by Qualcomm Incorporated, and the inventors of above-identified application number

09/924,307 were under an obligation to assign application No. 09/924,307 to Qualcomm Incorporated, at the time the invention of application No. 09/924,307 was made.

According to MPEP §706.02(l)(2), the above statement is sufficient to disqualify the Sarkar patent. As additional evidence of common ownership, Applicants provide the following data. For U.S. Patent No. **6,862,457**, an assignment from inventors, Sandip Sakar and Yu-Cheun Jou, to Qualcomm Incorporated is recorded beginning at Reel **012640** Frame **0684**. The recordation date is **February 15, 2002**. Accordingly, the rejections of claims 4 and 13, under 35 U.S.C. § 103(a), should now be withdrawn. For the above-identified application number **09/924,307**, an assignment from the inventors, Juan Montojo, Peter John Black and Naga Bhushan to Qualcomm Incorporated is recorded beginning at Reel **012635**, Frame **0891**. The recordation date is **February 19, 2002**. Accordingly, the rejections of claims 4, 8-10, 12-22, 24, 28, 32-34, 36-39, 41, 45, 49-51, 53-63 and 65, 69, 73-75, 77-80 and 82, under 35 U.S.C. § 103(a), should now be withdrawn.

Claim Amendments

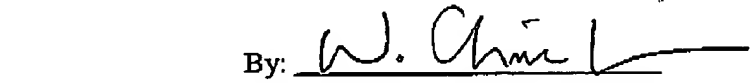
Claims 11 and 52 were amended to provide consistent grammar in each claim. Applicant asserts that the respective scope of claims 11 and 52 is not narrowed by the amendments.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: August 4, 2006

By: 

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